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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,072	07/18/2001	Michael B. Jones	MS1-0204USC1	9796
22801	7590	01/13/2009		
LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER TRUONG, CAMQUY	
			ART UNIT	PAPER NUMBER
			2195	
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			01/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/909,072

Applicant(s)

JONES ET AL.

Examiner

CAMQUY TRUONG

Art Unit

2195

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 24-31 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 9, 21-24 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claims is not clearly understood

i. As to claim 24, lines 14-15, it is not clearly indicated how the step of "determining ..." relates to "using ... to reformulate..." step (i.e. if the amounts is acceptable then using... to reformulate...).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sreenan (U.S. Patent 5,742,772) in view of Wrabetz et al. (U.S. Patent 5,442,791), and further in view of Baugher (U.S. 5,634,006).

6. As to claim 24, Sreenan teaches the invention substantially as claimed including: in computer system having resources and a resource planner for granting reservations of amounts of resources to activities, a computer-implemented method comprising:

submitting a request for a reservation of a set of resources in specified amounts from an activity to the resource planner (resource manager receives the QOS specification (set of resource demands, amount of memory) from clients through bridge service, col. 12, lines 35-37; col. 5, lines 45-60);

determining at the resource planner that the request may not be granted (resource manager determine whether resource can be allocated to meet the QOS specification (col. 2, lines 21-22; col. 12, lines 42-44);

using the at the activity the amounts of each currently available resource that did not satisfy the resource reservation request (a resource manager that receives QOS specification from bridge service, distributes at least one QOS constraint associate QOS specification, col. 12, lines 37-39. It would have been obvious that receives QOS specification from bridge service including the list of resource that did not satisfy the request) to reformulate the request for a reservation of the set of resources to specify new requested amounts (client may

alter their QOS specifications (set of resource demands/ amount of memory), col. 2, lines 23-24; col. 9, lines 65-67; col. 12, line 45);

resubmitting the reformulated request to the resource planner (clients may alter its request and retry and the internal negotiation process is repeated, col. 9, lines 65-67; col. 10, lines 60-61); and

executing the activity (col. 10, lines 1-13).

7. Sreenan does not explicitly teach returning from the resource planner to the activity a list of amounts of the set of resources that are currently available to the activity; and the amount being specified in terms of units specific to each resource in the set of resource. However, Wrabetz teaches returning from the resource planner to the activity a list of amounts of the set of resources that are currently available to the activity (return a list of resources which can be used to satisfy the resource request to the remote execution interface, col. 6, lines 47-67; col. 7, lines 39-45; col. 13, lines 34-42; col. 34, lines 38-47), and the amount being specified in terms of units specific to each resource in the set of resource (the resource information database is a centralized database, typically located on one or more of the processors in the network that will have sufficient CPU capacity to execute the resource management component in a timely manner (col. 8, lines 59-64).

8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of returning a list of amounts of the

set of resource that are currently available by Wrabetz to the invention of Sreenan because this allows dynamically allocating remote resources to request for remote services in that computer network environment.

9. Sreenan and Wrabetz do not explicitly teach determining at the activity whether the amounts of each currently available resource that did not satisfy the resource reservation request are acceptable. However, Baugher teaches determining at the activity whether the amounts of each currently available resource that did not satisfy the resource reservation request are acceptable (If the remote machine cannot handle the proposed value, but can handle a value above the minimum or below the maximum, then it may lower the parameter to its value, col. 6, lines 46-53).

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Sreenan and Wrabetz to incorporate the teaching of determining at the activity whether the amounts of each currently available resource that did not satisfy the resource reservation request are acceptable as taught by Baugher because this allows to minimal communication delay; thereby maximum throughput.

11. As to claim 25, it is rejected for the same reason as claim 1. In addition, Sreenan teaches the invention as claimed including: in a computer system having resources and a resource planner for granting reservations of amounts of resources to

activities performed on the computer system (col. 5, lines 45-62; col. 7, line 59 – col. 8, line 18), a method comprising the computer-implemented steps of:

negotiating between the resource planner and activities to reserve shares of the resources with the resource planner on behalf of the activities (col. 2, lines 10-26; col. 10, lines 63); and

in view of changing resource usage or requirements, renegotiating between the resource planner and the activities to change reservations of resources on behalf of the activities to reflect the changing resource usage or requirements (col. 2, lines 10-26; col. 10, lines 27-63).

12. As to claim 26, Screenan teaches the changing resource usage or requirements are the product of a new activity being performed (col. 2, lines 22-26).

13. As to claim 27, Screenan teaches the changing resource usage or requirements are the product of an activity changing its resource requirements (col. 2, lines 22-26; col. 10, lines 27-35).

14. As to claims 28- 29, Screenan teaches the changing resource usage or requirements are the product of a persistent overload of use of a resource (col. 11, lines 32-52).

15. As to claim 30, Screenan teaches the changing resource usage requirements are the product of a change in resource allocation policy (col. 2, lines 27-35).

16. As to claim 31, it is rejected for the same reason as claim 1.

Response to the argument

16. Applicant's arguments filed 10/31/08 for claims 21-34 have been considered but are moot in view of the new ground(s) rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMQUY TRUONG whose telephone number is (571)272-3773. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (703)305-9678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/
Primary Examiner, Art Unit 2194

Camquy Truong
January 7, 2009